Vertraulich! Persönlich!

8th March, 1978.

REPORT OF STATE OF AFFAIRS AND ACTIONS
TAKEN BY TASK FORCE EC CONSUMERISM

I. Development up-to-date

The Consumers' Consultative Committee - an informal body composed of consumers' representatives - has made a statement on the smoking issue in September, 1977. In this opinion the body urged the EC authorities to take strong measures curbing the alleged dangers of smoking. Among these measures are severe restrictions on public smoking, severe advertising restrictions, restrictions of distribution, i.e. through vending machines, leading public anti-smoking campaigns, and severe restrictions in duty-free trade. Realizing the potential dangers of this initiative, ICOSI decided at the beginning of November, 1977, to form a special Task Force for this issue.

On December 17th, 1977, the health ministers of the EC member states met and surprisingly used a substantial part of the discussions dealing with problems related with the smoking issue. Decisions were not taken, but the permanent representatives were asked to look into the matter and furnish the Commission with all informations available. On January 17th, 1978, Mrs. Squarcialupi raised a question

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in the European Parliament concerning the smoking issue and initiated a vivid debate, in which, among others, strong anti-smoking opinions were voiced.

Task Force met in the meantime twice, in January and in March, to deal with the whole complex.

II. Problems and Activities taken

A. Competence of the Commission

From a strictly legal point of view there are reasonable doubts whether the Commission according to the Treaty of Rome has the competence to regulate health matters with binding effects for the member states. Therefore, Task Force decided that through promoting published legal opinions stressing these doubts it should be tried to obtain arguments against actions of the Commission in this field. For further details of these legal opinions I will come back in the following points.

B. Advertising Restrictions

The Commission has no legal powers by evoking health reasons to order advertising restrictions for the member states or even advertising ban. The Task Force has started

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a program of obtaining legal opinions, which shall promote this idea. If possible, these opinions shall be published.

The whole program reads as follows:

UK	responsible	TAC
GERMANY	"	VdC
BENELUX	"	Rothmans
DENMARK	"	ST
FRANCE	"	VdC

We hope that the first publications will appear during the last quarter of 1978.

Estimated costs: $ 100,000.--

2nd Line of Defence against Advertising Restrictions

Advertising has no effect on total consumption. Expert opinions to this effect shall be obtained and, if possible, be published according to the following program:

UK - TAC (if possible by METRA)
GERMANY - VdC

Source: https://www.industrydocuments.ucsf.edu/docs/ylgk0000

Time: Publication last quarter of 1978

Estimated costs: $ 50,000.--

Advertising has no influence on young people starting to smoke.

Publication of opinions to this effect shall be obtained according to the following program:

UK - TAC
GERMANY - VdC
BENELUX - Rothmans (still open)

Time: At the end of 1978/beginning 1979

Estimated costs: $ 75,000.--

Advertising has certain positive effects. The Task Force realized the possible difficulties connected with this issue and recommended unanimously to act along the following guide line:

Draft of a Policy Statement concerning positive effects of advertising in the EEC

Public health authorities in major countries all over the

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world have taken a stand on the problem of smoking and health. There is general agreement among most of them that according to the present state of medical knowledge the consumer should be encouraged to prefer modern type cigarettes with a lower condensate level. This led to a marked consumers' demand for lighter cigarettes and here informative advertising plays an important role.

Realizing the above mentioned public claims, cigarette companies in EEC countries with free economies have used advertising as a means of communicating with the consumer, informing him about the varieties of cigarette types on the market. This has had the effect that in all countries where these mechanisms were allowed to work the average condensate and nicotine contents of the whole market have been significantly changed in the last years. To maintain the ability to inform the consumer of future developments it is absolutely necessary that the influencing mechanism - meaning the legal possibility of advertising - is preserved.

The Task Force saw the particular importance of this last point in the fact that it was the only positive statement for advertising. For that reason Task Force was of the opinion that we had to use these arguments in order to defend advertising successfully.

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C. "Health Tax"

According to information from reliable sources in Brussels after the decision of the British Government to introduce the "health tax" in the UK it seems unlikely that such a step would be reversed after the first phase, on the other hand it seems very probable that it will not only be extended, but also made to include the other member states.

Trying to counteract this initiative, a legal publication has been started upon by the VdC in which a professor points out that legally the EC has no competence to act in this field and that the "health tax" would have a disharmonizing effect, which was in direct confrontation with the object of the Treaty of Rome, which charged the member states with harmonizing the consumption taxes. At the moment excise differences between cigarettes in different countries within the EC are in the relation of 1:7. These differences would even become greater if the country with the highest taxes would introduce a still higher "health tax".

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The Task Force asked the VdC to prepare a concept of further industry actions in this field. It pointed out that it were advisable to charge a research company with the question of

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how the different cigarette markets in Europe developped as far as the average condensate and nicotine contents were concerned. This study might show that without a "health tax" the changes towards lower levels have been as great or even greater than the changes which might be attributed towards the "health tax".

D. Smoking and Health

Task Force recognized that the problem of smoking and health cannot totally be excluded from considerations concerning these proposed EC measures (see discussion with Mr. Quequin). The smoking and health question is regarded by EC authorities and member governments as basis for all deliberations concerning the smoking issue. In Europe the industry, if it wants to take influence on the course of events in the future, cannot refuse to discuss the basic problem of smoking and health in a way that industry is recognized as a serious, well-informed and objective discussion partner. In realizing this Task Force recommends to argue along the following lines when dealing with EC problems.

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It has to be acknowledged that there are certain statistical correlations between excessive smoking and certain diseases. On the other hand there is no scientist who claims that

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smoking is the only factor in causing certain diseases. On the contrary, modern science is more and more convinced that these diseases are caused by a multitude of factors and that the importance of the individual factor in connection with a certain disease cannot be scientifically weighed, but only estimated.

Task Force believes that credibility of the industry in Europe in dealing with Brussels authorities as well as national governments to a great deal depends on its willingness to co-operate with independent scientists, trying to research these possible connections and to make use of research as a means of steadily improving quality of our products.

E. Public Smoking

In the field of public smoking the Task Force was aware that the intentions of the Brussels authorities to institute smoking bans in public places would have to be counteracted efficiently. In this connection it was noted that Mr. Burke in his statement before the European Parliament pointed out that these smoking bans were one way of restricting total consumption of tobacco goods.

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Considering that ICOSI intended to consider the problem of public smoking, the Task Force waits for further recommendations.

III. Organizational Set Up in the Commission

Responsible for advertising restrictions is the Environment and Consumer Protection Service (Quequin). Responsible for public smoking and EC anti-smoking campaigns is the Directorate General Social Affairs. Involved should be as well the Directorate General Competition. Responsible commissioners are Burke and Vredeling.

IV. Contacts with the Commission

Task Force believes that at this stage of affairs the contacts should be sought at working level to influence the details of working papers by presenting information from our side.

I have visited Mr. Quequin on the 3rd February, 1978, and covered with him the following topics making use of the arguments presented above.

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V. Further Procedure

- Giving continuous information to the services of the Commission

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dealing with these problems;

- looking for possible allies (EAAA, tobacco growers, wholesalers, unions etc.);

- establishing contacts with members of the European Parliament, especially after these have received the CCC documentation as announced by Mr. Burke.

VI.

I think that the necessary steps have been laid out and that we have agreed on the conditions as how the European industry presents its side of the relevant institutions.

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